CR/16

3

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench

M.C.C. No. 48 of 2004

Applicants/ Appellants : 1. Rajkumari alias Rajjo,
Widow of Prakash Jain,
aged about 49 years

2. Banshilal Jain,
Son of Ratan Jain,

Both the appellants are resident of Lokholi Road, Nandai, Tahsil and District Rajnandgaon, Chhattisgarh.

P. R. No. 985/04 Received on 13.04.04
Presented by Shri Jeevan Lal Yadav
dated

VERSUS

Non-Applicants/ Respondents : 1. ~~Gulab bai, Widow of Rikhi Ram Khandelwal, aged about 68 years,~~ As per order dt. 29/8/06 name deleted 13/9/06

Attested
Sd/-
AR(J)

2. (A) Smt. Kamla devi,
widow of Harishankar Khandelwal
aged about 45 years

(B) Nand Kishor,
son of Harishankar Khandelwal
aged about 29 years,

(C) Jugal Kishor,
son of Harishankar Khandelwal
aged about 28 years,

(D) Dinesh
son of Harishankar Khandelwal
aged about 27 years,

शपथ आयुक्त
एम.के शुक्ला
बिलासपुर (छ.ग.)
12/4/23

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12.04.04
Clerk to A. G. Bilaspur

(E) Minesh
son of Harishankar Khandelwal
aged about 26 years,

(F) Rajesh
son of Harishankar Khandelwal
aged about 24 years,

3. Shri Krishn,
Son of Rikhiram Khandelwal
aged about 42 years,

4. Satyanarayan,
Son of Rikhiram Khandelwal,
aged about 30 years,

5. Prurshottam,
Son of Rikhiram Khandelwal,
aged about 30 years,

All the above named respondents are resident of Ganjline, Town, Tahsil and District Rajnandgaon, Chhattisgarh.

6. The State of Chhattisgarh.
Through Collector Rajnandgaon

22.4.04

APPLICATION FOR RESTORATION OF THE APPEAL

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक MCC 48/2004 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

25-8-2006

Shri Vinod Tekam, counsel for the applicants.

Shri Anoop Mazumdar, counsel for the respondents.

Application (I.A.No.2347/2006) for hearing the case out of turn is allowed.

Heard on M.(C.).P.No.638/2004 for condonation of delay.

Not opposed.

For the reasons stated in the application {M.(C.).P.No.638/2004}, the same is allowed and the delay in filing the MCC is condoned.

Heard on I.A.No.3251/2005 for deletion of the name of respondent No.1.

Not opposed.

For the reasons stated in the application (I.A.No.3251/2005), the same is allowed and the name of respondent No.1 is deleted.

Heard.

The instant MCC has been filed by the applicants for restoration of Second Appeal No.388/2003.

Learned counsel for the applicants submits that Second Appeal No.388/2003 was taken up for hearing on 2-12-2003 and it was directed to issue notice on payment of process fee within seven days, failing which the appeal shall stand dismissed automatically without reference to the Bench.

Since the appellants did not comply with the order passed by this Court in Second Appeal No.388/2003, the appeal has been dismissed.

P.T.O.

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक MCC 48/2004 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
Gowri	Learned counsel for the applicants submits that due to bona fide mistake the process fee could not be paid in time and he prays for restoring the Second Appeal to its original number. The application for restoration of Second Appeal is supported by an affidavit of counsel. Having considered the facts and circumstances of the case, material on record and in view of the decision of Supreme Court rendered in the case of **Rafiq and another vs. Munshilal and another (AIR 1981 SC 1400)** wherein it has been held that the party should not suffer because of mistake or error of the counsel, the MCC is allowed. Counsel for the applicants to be careful in future. The Second Appeal is restored to its original number i.e. **Second Appeal No.388/2003**. Copy of this order be placed in Second Appeal No.388/2003. Certified copy as per rules. **Sd/-** **Fakhruddin** **Judge**	